

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OKLAHOMA

WESTERN HERITAGE INSURANCE  
COMPANY,

Plaintiff,

vs.

WARDLAW CLAIMS SERVICES,  
INC., and RIMKUS CONSULTING  
GROUP, INC.,

Defendants.

Case No.: 13-CV-00367-JED-PJC

**DEFENDANT WARDLAW CLAIMS SERVICES, LLP'S INITIAL  
DISCLOSURES**

Pursuant to Rule 26(a)(1), *Fed.R.Civ.P.*, Defendant Wardlaw Claims Services, LLP (“Wardlaw”) makes the following Initial Disclosures:

**1. PERSONS WITH DISCOVERABLE INFORMATION**

The following persons who are likely to have information that Wardlaw may use to support its counterclaim, cross claims and defenses:

**Dennis Eastep**  
**Kenneth Bentley**  
**Corporate Representative-Wardlaw**  
**Records Custodian-Wardlaw**  
c/o John A. Klecan  
Richard H. Goldberg  
Renaud Cook Drury Mesaros, PA  
1 No. Central Ave., Suite 900  
Phoenix, AZ 85004  
Telephone: (602) 256-3068  
Facsimile: (602) 307-5853  
Email: [jklecan@rcdmlaw.com](mailto:jklecan@rcdmlaw.com)  
Email: [rgoldberg@rcdmlaw.com](mailto:rgoldberg@rcdmlaw.com)

Dennis Eastep (“Eastep”) is the field adjustor retained by Wardlaw to monitor, oversee

and adjust the fire loss claim made by Cowboy Junction Church in Venita, Oklahoma. Eastep communicated with Sherman Smith ("Smith"), lead adjustor at Western Heritage Insurance Co. ("Western Heritage"), representative(s) Cowboy Junction Church, the insured's agent, Doug Donely, and Mark Swan, an employee of Rimkus Consulting Group, Inc., which served as the cause and origin ("C&O") investigator of the fire loss. Eastep will have information about the fire loss at Cowboy Junction. He communicated with Western Heritage, which authorized and approved the retention of Rimkus as the C&O investigator. Eastep learned from the C&O investigator, who had inspected the two heavily fire damaged buildings, that he determined the origin, but not the cause of the fire. Eastep further learned from the C&O investigator that due to the extensive fire and heat damage to the walk-in cooler and building, it was futile and would not be cost effective to conduct further onsite and lab investigation of the walk-in cooler, and its components, to determine whether the walk-in cooler, or its components, was the cause of the fire. Eastep reported the C&O's verbal assessment and opinion to Smith about the futility and cost ineffectiveness of such further investigation of the walk-in cooler, and its components. Smith then authorized the removal of walk-in cooler and other debris from the site once the C&O investigator had completed his onsite inspection and released the loss location. Smith did not request that the walk-in cooler be retained for further onsite or lab investigation. Smith also authorized the removal of the walk-in cooler; however, Eastep also told Smith that the walk-in cooler was still on the site. Thereafter, Eastep notified Cowboy Junction representative and its agent that the C&O investigator had released the site and debris removal could begin (as the insured wanted to re-start the school the following week). Eastep did not receive an email from the C&O investigator about retaining an electrical engineer regarding further investigation of the walk-in cooler. Eastep prepared the estimate for repairs.

Ken Bentley ("Bentley") is Wardlaw's Director of Catastrophe Claims. He communicated with Eastep about the fire loss investigation, including the assessment and opinion conveyed by the C&O investigator to Eastep that further examination and testing of the walk-in cooler, and its components, would likely be futile and not cost effective. Bentley has spoken with Western Heritage about its subrogation demands. Bentley has knowledge about Wardlaw's relationship with Western Heritage, the adjustment of the claim and the amount of the fire loss.

**Sherman Smith**  
**Corporate Representative-Wardlaw**  
**Records Custodian-Wardlaw**  
 c/o Chad M. Nuens  
 Brian L. Mitchell  
 Neuns Mitchell Freese, PLLC  
 Lewis Center Building  
 2021 S. Lewis Ave., Suite 660  
 Tulsa, OK 74104  
 Telephone: (918) 749-9334  
 Facsimile: (918) 749-9339  
 Email: [cneuens@neuensmitchell.com](mailto:cneuens@neuensmitchell.com)  
 Email: [bmitchell@neuensmitchell.com](mailto:bmitchell@neuensmitchell.com)

Smith is the Western Heritage lead adjustor who contacted Wardlaw about adjusting the fire loss at the Cowboy Junction site. He will have information about the fire loss, including communications with Western Heritage's insured, and assigning the claim to Wardlaw to adjust. Smith has knowledge of Western Heritage and Wardlaw's communications about the claim, including authorization and approval given to Wardlaw to retain, on behalf of Western Heritage, Rimkus as the C&O. Smith further knows that Eastep told him of the C&O investigator's assessment and opinion of the origin of the fire, and that it would be futile and not cost effective to conduct further on-site examination and testing of the walk-in cooler, and its components, to

determine if it was the cause of the fire. Smith authorized Eastep to inform Cowboy Junction that it could remove the debris from the site, including the walk-in cooler. Smith has information about Western Heritage's policy with its insured and payments made under the policy to the insured.

**Wade Markham**  
**Michelle Markham**  
**"Louise"**  
**Cowboy Junction**  
27502 South 4380 Road  
Vinita, OK 74301  
Telephone: (918) 256-4180

Rev. Wade Markham is the pastor of Cowboy Junction Church. He has information about the policy of insurance issued by Western Heritage to Cowboy Junction. He had communications with Eastep about the walk-in cooler, that it was second-hand when acquired and its condition, and about removing the debris from the site. He also had communications with his insurance agent about the claim made to Western Heritage, the fire loss and recovery on the claim.

Michelle Markham is the School Administrator. Louise was a contact person for Eastep.

**Employees of Cowboy Junction**  
Names/Addresses Unknown

These individuals will likely have information about the school, church and restaurant before and after the fire, the removal of the debris and rebuilding of the structures.

**Members of Cowboy Junction Church congregation**  
Names/ Addresses Unknown

These individuals will likely have information about the church before and after the fire, the removal of the debris and rebuilding of the church.

**Doug Donely**  
**Alice Chorum**  
P.O. Box 735  
Carthage, MO 64836  
Telephone: (417) 358-4041  
Facsimile: (417) 358-9333

Mr. Donely is an insurance agent at Southwest Agency Inc. Cowboy Junction was its client. He had communications with his client and Eastep about the claim and fire loss, including removal of the debris to reopen the school.

Alice Chorum is with Southwest Agency, Inc. and had contact with Eastep and Rev. Markham regarding Cowboy Junction removing the fire debris.

**Mark C. Swan, Fire Consultant, IAAI-CFI**  
**Cecil R. Meeks, Senior Fire Consultant**  
**Dennis P. Dunklegod, Branch Manager, Tulsa, OK**  
c/o John F. Heil, III

Travis Cushman  
Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.  
320 South Boston Ave., Suite 200  
Tulsa, OK 74103-3706  
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Email: [jheil@hallestill.com](mailto:jheil@hallestill.com)  
and  
c/o David A. Ward  
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10077 Grogan's Mill Rd., Suite 450  
The Woodlands, Texas 77380  
Telephone: (928) 362-7728  
Facsimile: (281) 362-7743  
Email: [ward@dwardlaw.com](mailto:ward@dwardlaw.com)

Mark C. Swan (Swan") is the Rimkus C&O investigator of the Cowboy Junction site. He informed Wardlaw about the origin of the fire with the walk-in cooler and that further examination and testing of the walk-in cooler, and its components, would be futile in determining the cause of the fire due to the extensive fire and heat damage to the walk-in cooler and its components.

Cecil R. Meeks and Swan signed Rimkus' Report of Findings.

Dennis P. Dunklegod was involved in the assignment of Rimkus as the C&O investigator of the fire loss and attempted to unilaterally create contractual terms thereof.

**Corporate Representative**  
**Builder of Cowboy Junction**  
**Records Custodian-Builder of Cowboy Junction**  
Name/address unknown

This individual may be able to provide information about the building of the Cowboy Junction premises, which would include the construction of the area of the building where the fire started. This may lead to information relevant to the cause of the fire.

**Manuel Lima**  
**Lima Construction**  
435786 East 300 Road  
Vinita, OK 74301  
Telephone: (918) 783-5457  
Cell: (918) 323-2390

Manuel Lima prepared an estimate of rebuilding the Cowboy Junction premises. In preparing the estimate, he tracked down most of the original contractors and suppliers. Consequently he can identify the names of such contractors and suppliers and further may be able to supply information about his communications with them about the initial construction of the premises.

**Corporate Representative-Power Bilt Steel Buildings**  
**Records Custodian-Power Bilt Steel Buildings**  
Telephone: (800) 871-8779

Eastep contacted this company about preparing an estimate for replacement of buildings.

**Corporate Representative-Davis Buildings**  
**Records Custodian- Davis Buildings**  
Telephone: (918) 256-2600

Eastep contacted this company about preparing an estimate for replacement of buildings.

**Corporate Representative-Morton Steel Buildings**  
**Records Custodian-Morton Steel Buildings**  
Telephone: (877) 547-8121

Eastep contacted this company about preparing an estimate for replacement of buildings.

**Clifford L. Barger**  
**Clifford Barger & Associates**  
**330 W. Gray, Suite 115**  
**Norman, OK 73069**  
Telephone: (405) 360-0938  
Facsimile: (405) 360-1052

Clifford Barger conducted an appraisal of the fire loss property.

Other individuals identified in the Initial Disclosures of Rimkus and Western Heritage who have personal knowledge of the fire loss.

## **2. DOCUMENTS AND ELECTRONIC FILES**

A CD of Wardlaw's documents in its care, custody and control that may support its counterclaim, cross claims and defenses will be separately served on counsel for Western Heritage and Rimkus.

Western Heritage and Rimkus have previously exchanged in the informal mediation a separate CD and/or copy of their documents, which include, but not are limited to Wardlaw's correspondence, emails, loss file, photographs, appraisals, and narrative report of the fire loss. These documents are incorporated herein by reference.

## **3. DAMAGES**

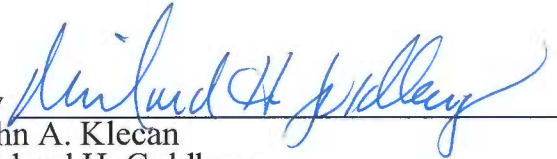
Wardlaw is seeking indemnity against Rimkus for any and all damages that Western Heritage may recover against it. Western Heritage claims loss of the right of subrogation paid on the Cowboy Junction claim in the amount of \$917,213.15 (based on the insured's proof of loss claim and appraisals of the property, which is contained in Wardlaw's CD).

## **4. INSURANCE AGREEMENTS**

A copy of the Certificate of Liability Insurance identifying the policy number under which Wardlaw's insurer may be liable to satisfy all or part of a possible judgment in the action

or to indemnify or reimburse for payments made to satisfy the judgment is attached hereto as Exhibit A.

RENAUD COOK DRURY MESAROS, PA

By 

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and

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*Attorneys for Defendant Wardlaw Claims  
Services, LLP*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 1<sup>st</sup> day of October, 2013, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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/s/ Richard H. Goldberg